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MARIBEL MURILLO

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARIBEL MURILLO, individually
and as successor-in-interest of the
estate of deceased, JONATHAN
MURILLO-NIX,

Plaintiff,

vs.

CITY OF LOS ANGELES, a
governmental entity; JESUS
MARTINEZ, individually; KYLE
GRIFFIN, individually; and DOES 1-
10, inclusive,

Defendants.

Case No.: 2:22-cv-03188 DMG (SKx)

[*Honorable Dolly M. Gee*]
Magistrate Judge Steve Kim

**DECLARATION OF MARCEL F.
SINCICH IN SUPPORT OF
PLAINTIFF'S OPPOSITIONS TO
DEFENDANTS' RESPECTIVE
MOTIONS FOR SUMMARY
JUDGMENT**

MSJ Date: December 15, 2023
Time: 9:30 a.m.
Judge: Hon. Dolly M. Gee
Courtroom 8C, 8th Floor

DECLARATION OF MARCEL F. SINCICH

I, Marcel F. Sincich, hereby declare as follows:

I am an attorney duly licensed to practice law in the State of California and the United States District Court for the Central District of California. I am one of the attorneys of record for the Plaintiff. I make this declaration in support of Plaintiff's Opposition to Defendants' Motion for Summary Judgment (Doc. 44). I have personal knowledge of the facts contained herein and could testify competently thereto if called.

1. Attached hereto as "**Exhibit 1**" is a true and correct copy of the relevant portions of the September 27, 2023, Deposition Transcript of Defendant Officer Kyle Griffin ("**Exh. 1, Griffin Depo.**").

2. Attached hereto as "**Exhibit 2**" is a true and correct copy of the relevant portions of the February 1, 2022, First Statement of Officer Kyle Griffin ("**Exh. 2, Griffin Statement I**"), produced by Defendants during discovery as CITY 1022-1043. [Subject to this Court's ruling on Plaintiff's request to file under seal, Doc. 49.]

3. Attached hereto as "**Exhibit 3**" is a true and correct copy of the relevant portions of the February 2, 2022, Second Statement of Officer Kyle Griffin ("**Exh. 3, Griffin Statement II**"), produced by Defendants during discovery as CITY 1044-1107. [Subject to this Court's ruling on Plaintiff's request to file under seal, Doc. 49.]

4. Attached hereto as "**Exhibit 4**" is a true and correct copy of the relevant portions of the September 27, 2023, Deposition Transcript of Defendant Officer Jesus Martinez ("**Exh. 4, Martinez Depo.**").

5. Attached hereto as "**Exhibit 5**" is a true and correct copy of the relevant portions of the February 1, 2022, First Statement of Officer Jesus Martinez ("**Exh. 5, Martinez Statement I**"), produced by Defendants during discovery as

1 CITY 802-824. [Subject to this Court’s ruling on Plaintiff’s request to file under
2 seal, Doc. 49.]

3 6. Attached hereto as “**Exhibit 6**” is a true and correct copy of the
4 relevant portions of the February 2, 2022, Second Statement of Officer Jesus
5 Martinez (“**Exh. 6, Martinez Statement II**”), produced by Defendants during
6 discovery as CITY 825-890. [Subject to this Court’s ruling on Plaintiff’s request to
7 file under seal, Doc. 49.]

8 7. Attached hereto as “**Exhibit 7**” is a true and correct copy of the
9 relevant portions of the February 2, 2022, Statement of Sergeant Francisco Alferez
10 (“**Exh. 7, Alferez Statement**”), produced by Defendants during discovery as CITY
11 1317-1388 and produced by the County of Los Angeles District Attorney’s Office
12 via Subpoena as LADA 903-974. [Subject to this Court’s ruling on Plaintiff’s
13 request to file under seal, Doc. 49.]

14 8. Attached hereto as “**Exhibit 8**” is a true and correct copy of the
15 relevant portions of the February 8, 2022, Statement of Officer Nicholas Knolls
16 (“**Exh. 8, Knolls Statement**”), produced by Defendants during discovery as CITY
17 1211-1266 and produced by the County of Los Angeles District Attorney’s Office
18 via Subpoena as LADA 797-852. [Subject to this Court’s ruling on Plaintiff’s
19 request to file under seal, Doc. 49.]

20 9. Attached hereto as “**Exhibit 9**” is a true and correct copy of the
21 relevant portions of the February 2, 2022, Statement of Officer Eric Schlesinger
22 (“**Exh. 9, Schlesinger Statement**”), produced by Defendants during discovery as
23 CITY 581-650 and produced by the County of Los Angeles District Attorney’s
24 Office via Subpoena as LADA 352-411. [Subject to this Court’s ruling on Plaintiff’s
25 request to file under seal, Doc. 49.]

26 10. Attached hereto as “**Exhibit 10**” is a true and correct copy of the
27 relevant portions of the February 7, 2022, Statement of Officer Daniel Frazer (“**Exh.**
28 **10, Frazer Statement**”), produced by Defendants during discovery as CITY 509-

1 536 and produced by the County of Los Angeles District Attorney's Office via
2 Subpoena as LADA 270-297. [Subject to this Court's ruling on Plaintiff's request to
3 file under seal, Doc. 49.]

4 11. Attached hereto as "**Exhibit 11**" is a true and correct copy of the
5 relevant portions of the February 10, 2022, Statement of Officer Greorgiy
6 Tykhomryov ("**Exh. 11, Tykhomryov Statement**"), produced by Defendants
7 during discovery as CITY 689-715 and produced by the County of Los Angeles
8 District Attorney's Office via Subpoena as LADA 450-477. [Subject to this Court's
9 ruling on Plaintiff's request to file under seal, Doc. 49.]

10 12. Attached hereto as "**Exhibit 12**" is a true and correct copy of the
11 relevant portions of the February 22, 2022, Statement of Officer Joshua Carlos
12 ("**Exh. 12, Carlos Statement**"), produced by the County of Los Angeles District
13 Attorney's Office via Subpoena as LADA 595-645. [Subject to this Court's ruling
14 on Plaintiff's request to file under seal, Doc. 49.]

15 13. Attached hereto as "**Exhibit 13**" is a true and correct copy of the
16 relevant portions of the February 22, 2022, Statement of Officer Luis Lopez ("**Exh.**
17 **13, Lopez Statement**"), produced by Defendants during discovery as CITY 1108-
18 1149 and produced by the County of Los Angeles District Attorney's Office via
19 Subpoena as LADA 694-735. [Subject to this Court's ruling on Plaintiff's request to
20 file under seal, Doc. 49.]

21 14. Attached hereto as "**Exhibit 14**" is a true and correct copy of the
22 relevant portions of the February 2, 2022, Statement of Officer Marcos Gutierrez
23 ("**Exh. 14, Gutierrez Statement**"), produced by Defendants during discovery as
24 CITY 1150-1177 and produced by the County of Los Angeles District Attorney's
25 Office via Subpoena as LADA 736-763. [Subject to this Court's ruling on Plaintiff's
26 request to file under seal, Doc. 49.]

27 15. Attached hereto as "**Exhibit 15**" is a true and correct copy of the
28 relevant portions of the February 8, 2022, Statement of Officer Sabrina Martinez

1 (“**Exh. 15, S.Martinez Statement**”), produced by Defendants during discovery as
2 CITY 1267-1303 and produced by the County of Los Angeles District Attorney’s
3 Office via Subpoena as LADA 853-889. [Subject to this Court’s ruling on Plaintiff’s
4 request to file under seal, Doc. 49.]

5 16. Attached hereto as “**Exhibit 16**” is a true and correct copy of the
6 relevant portions of the February 4, 2022, Statement of Officer Michael Proni
7 (“**Exh. 16, Proni Statement**”), produced by Defendants during discovery as CITY
8 1178-1210 and produced by the County of Los Angeles District Attorney’s Office
9 via Subpoena as LADA 764-796. [Subject to this Court’s ruling on Plaintiff’s
10 request to file under seal, Doc. 49.]

11 17. Attached hereto as “**Exhibit 17**” is a true and correct copy of the
12 relevant portions of the February 2, 2022, Statement of Officer Eduardo Piche
13 (“**Exh. 17, Piche Statement**”), produced by Defendants during discovery as CITY
14 537-580 and produced by the County of Los Angeles District Attorney’s Office via
15 Subpoena as LADA 298-341. [Subject to this Court’s ruling on Plaintiff’s request to
16 file under seal, Doc. 49.]

17 18. Attached hereto as “**Exhibit 18**” is a true and correct copy of the
18 relevant portions of the County of Los Angeles Department of Medical Examiner-
19 Coroner Autopsy Report of Decedent Jonathen Murillo-Nix (“**Exh. 18, Autopsy**
20 **Report**”), produced by Defendants during discovery as CITY 308-322. [Subject to
21 this Court’s ruling on Plaintiff’s request to file under seal, Doc. 49.]

22 19. Attached hereto as “**Exhibit 19**” is a true and correct copy of the select
23 photographs taken during the autopsy of Decedent Jonathen Murillo-Nix (“**Exh. 19,**
24 **Autopsy Photos**”).

25 20. Attached hereto as “**Exhibit 20**” is a true and correct copy of the Los
26 Angeles Force Investigation Division Report (“**Exh. 20, FID Report**”), produced
27 by Defendants during discovery as CITY 208-246 and produced by the County of
28

1 Los Angeles District Attorney's Office via Subpoena as LADA 11-46. [Subject to
2 this Court's ruling on Plaintiff's request to file under seal, Doc. 49.]

3 21. Attached hereto as "**Exhibit 21**" is a true and correct copy of the
4 January 10, 2023, Abridged Summary Categorical Use of Force Incident and
5 Findings by the Los Angeles Board of Police Commissioners ("**Exh. 21, BOPC**
6 **Findings**"), published on the Los Angeles Police Department website at
7 ([https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/004-22-](https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/004-22-PR-OIS-FINAL.pdf)
8 [PR-OIS-FINAL.pdf](https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/004-22-PR-OIS-FINAL.pdf)).

9 22. Attached hereto as "**Exhibit 22**" is a true and correct copy of the select
10 photographs of involved officer weapons, ("**Exh. 22, Officer Weapons Photos**"),
11 produced by Defendants during discovery. [Subject to this Court's ruling on
12 Plaintiff's request to file under seal, Doc. 49.]

13 23. Attached hereto as "**Exhibit 23**" is a true and correct copy of the select
14 photographs of the incident scene, ("**Exh. 23, Scene Photos**"), produced by
15 Defendants during discovery. [Subject to this Court's ruling on Plaintiff's request to
16 file under seal, Doc. 49.]

17 24. Attached hereto as "**Exhibit 24**" is a true and correct copy of the
18 relevant portion of the Officer Eric Schlesinger Body-Worn Camera Video of the
19 Officer-Involved Shooting Incident ("**Exh. 24, Schlesinger BWC of OIS**"),
20 produced as is by the County of Los Angeles District Attorney's Office via
21 Subpoena and the full-length video produced by Defendants during discovery as
22 CITY 2238. This is a video file and will be lodged manually with the Court pursuant
23 to Local Rule 11-5.1.

24 25. Attached hereto as "**Exhibit 25**" is a true and correct copy of the
25 relevant portion of the Officer Marcos Gutierrez Body-Worn Camera Video of the
26 Officer-Involved Shooting Incident ("**Exh. 25, Gutierrez BWC of OIS**"), produced
27 as is by the County of Los Angeles District Attorney's Office via Subpoena and the
28

1 full-length video produced by Defendants during discovery as CITY 2245. This is a
2 video file and will be lodged manually with the Court pursuant to Local Rule 11-5.1.

3 26. Attached hereto as “**Exhibit 26**” is a true and correct copy of the
4 relevant portion of the Officer Marcos Gutierrez Body-Worn Camera Video of the
5 Officer-Involved Shooting Incident at 12 frames per second (“**Exh. 26, Gutierrez**
6 **BWC at 12fps**”), produced as is by the County of Los Angeles District Attorney’s
7 Office via Subpoena and the full-length video produced by Defendants during
8 discovery as CITY 2245. This is a video file and will be lodged manually with the
9 Court pursuant to Local Rule 11-5.1.

10 27. Attached hereto as “**Exhibit 27**” is a true and correct copy of
11 **Screenshots of the Officer Marcos Gutierrez Body-Worn Camera Video of the**
12 **Officer-Involved Shooting Incident.**

13 28. Attached hereto as “**Exhibit 28**” is a true and correct copy of the
14 relevant portion of the Officer Kyle Griffin Body-Worn Camera Video of the
15 Officer-Involved Shooting Incident (“**Exh. 28, Griffin BWC of OIS**”), produced as
16 is by the County of Los Angeles District Attorney’s Office via Subpoena and the
17 full-length video produced by Defendants during discovery as CITY 2256. This is a
18 video file and will be lodged manually with the Court pursuant to Local Rule 11-5.1.

19 29. Attached hereto as “**Exhibit 29**” is a true and correct copy of the
20 relevant portion of the Officer Kyle Griffin Body-Worn Camera Video of the
21 Officer-Involved Shooting Incident at 12 frames per second (“**Exh. 29, Griffin**
22 **BWC at 12fps**”), produced as is by the County of Los Angeles District Attorney’s
23 Office via Subpoena and the full-length video produced by Defendants during
24 discovery as CITY 2256. This is a video file and will be lodged manually with the
25 Court pursuant to Local Rule 11-5.1.

26 30. Attached hereto as “**Exhibit 30**” is a true and correct copy of
27 **Screenshots of the Officer Kyle Griffin Body-Worn Camera Video of the**
28 **Officer-Involved Shooting Incident.**

1 31. Attached hereto as “**Exhibit 31**” is a true and correct copy of the
2 relevant portion of the Officer Jesus Martinez Body-Worn Camera Video of the
3 Officer-Involved Shooting Incident (“**Exh. 31, Martinez BWC of OIS**”), produced
4 as is by the County of Los Angeles District Attorney’s Office via Subpoena and the
5 full-length video produced by Defendants during discovery as CITY 2257. This is a
6 video file and will be lodged manually with the Court pursuant to Local Rule 11-5.1.

7 32. Attached hereto as “**Exhibit 32**” is a true and correct copy of the
8 relevant portion of the Officer Jesus Martinez Body-Worn Camera Video of the
9 Officer-Involved Shooting Incident at 12 frames per second (“**Exh. 32, Martinez**
10 **BWC at 12fps**”), produced as is by the County of Los Angeles District Attorney’s
11 Office via Subpoena and the full-length video produced by Defendants during
12 discovery as CITY 2257. This is a video file and will be lodged manually with the
13 Court pursuant to Local Rule 11-5.1.

14 33. Attached hereto as “**Exhibit 33**” is a true and correct copy of
15 **Screenshots of the Officer Nicholas Knolls Body-Worn Camera Video of the**
16 **Officer-Involved Shooting Incident.**

17 34. Attached hereto as “**Exhibit 34**” is a true and correct copy of the
18 relevant portion of the Officer Nicholas Knolls Body-Worn Camera Video of the
19 Officer-Involved Shooting Incident (“**Exh. 34, Knolls BWC of OIS**”), produced as
20 is by the County of Los Angeles District Attorney’s Office via Subpoena and the
21 full-length video produced by Defendants during discovery as CITY 2250. This is a
22 video file and will be lodged manually with the Court pursuant to Local Rule 11-5.1.

23 35. Attached hereto as “**Exhibit 35**” is a true and correct copy of the
24 relevant portion of the Officer Nicholas Knolls Body-Worn Camera Video of the
25 Officer-Involved Shooting Incident at 12 frames per second (“**Exh. 35, Knolls**
26 **BWC at 12fps**”), produced as is by the County of Los Angeles District Attorney’s
27 Office via Subpoena and the full-length video produced by Defendants during
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1 discovery as CITY 2250. This is a video file and will be lodged manually with the
2 Court pursuant to Local Rule 11-5.1.

3 36. Attached hereto as “**Exhibit 36**” is a true and correct copy of the
4 screenshots to the body-worn camera videos of Officers Gutierrez, Griffin, and
5 Knolls which are attached above as Exhibits 26, 28, and 35 respectively, combined
6 with annotation of time when force was used. Plaintiff submits this Exhibit as a
7 demonstrative to assist the Court. The Court has the authority to control the mode of
8 presenting evidence. Fed. R. Evid. 611. The Court can accept this demonstrative
9 because producing and evaluating every frame of multiple videos simultaneously
10 would constitute voluminous photographs that cannot be conveniently examined by
11 the Court. Fed. R. Evid. 1006. Plaintiff’s demonstratives streamline the process of
12 viewing the objective facts, including in the light most favorable to the non-
13 movants, by synthesizing the videos into graphics that show Defendants’
14 inconsistencies and contradictions. *See Scott v. Henrich*, 39 F.3d 912, 915 (9th Cir.
15 1994; *Sandifer v. U.S. Steel Corp.*, 678 F.3d 590, 592 (7th Cir. 2012), *aff’d*, 571
16 U.S. 220 (2014) (stating, “since a picture is worth a thousand words, here is a
17 photograph of a man modeling the clothes”); *Atwood v. Ryan*, 870 F.3d 1033, 1066-
18 79 (9th Cir. 2017); *United States v. Kelly*, 874 F.3d 1037, 1045 (9th Cir. 2017).

19
20 I declare under penalty of perjury under the laws of the United States that the
21 foregoing is true and correct. Executed this 22nd day of November 2023.

22
23 _____
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25 Marcel F. Sincich
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